

REMARKS

Following entry of the foregoing amendments, claims 5-7 and 11-17 and 20-28 constitute the pending claims in the present application. Claims 20 and 21 are withdrawn. Claims 5, 14-17, and 20-21 are currently amended. Claims 22-28 are newly added.

Claim 5 is amended to more particularly define the present invention. Support for this amendment can be found in numerous places in the specification, for example on page 41, line 2. No new matter is added by this amendment.

Claims 14-17 and 20-21 are amended to correct matters of form. No new matter is added by these amendments.

Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the prior Office Action.

1. Election/Restrictions

Applicants appreciate the clarification provided by the Examiner regarding the withdrawal of claims 20 and 21. Accordingly, Applicants designate these claims as withdrawn. The Office notes that upon allowance of a composition requiring a particular set of complexing agents comprising a guest moiety, Applicants have the option of pursuing a complexing agent comprising a host moiety in addition to the allowed set of complexing agents comprising a guest moiety.

2. Withdrawal of Rejections Under 35 USC 103

Applicants note with appreciation the withdrawal of rejections of record under 35 USC 103 over US 6,667,293 to Zhao et al., Gonzalez et al. (*Bioconjugate Chem.* 1999, 10, 1068-1074), Amiel et al. (*J. Polym. Anal. Char.*, 1995), and US 4,877,778 to Carpenter et al.

3. Claim Rejections – 35 USC 102(e)

Claims 5-7 and 11-18 are rejected under 35 USC 102(e) as allegedly being anticipated by US 6,740,643 to Wolff et al. (“Wolff”). Applicants respectfully traverse the rejection to the extent that it is maintained over the claims as currently amended.

The Office states that “Wolff discloses several compositions comprising a cyclodextrin-containing polymer, plasmid DNA and a complexing agent. Complexing agents include 1-adamantamine.” Applicants hereby amend claim 5 to recite a complexing agent “wherein the complexing agent comprises at least one polymer portion.” Applicants contend that Wolff does not disclose a composition comprising a cyclodextrin-containing polymer, a therapeutic agent, and a complexing agent comprising at least one functional group and at least one host/guest moiety that forms an inclusion complex with a host/guest moiety of said cyclodextrin-containing polymer, wherein the complexing agent comprises at least one polymer portion, and wherein the cyclodextrin-containing polymer, the therapeutic agent, and the complexing agent are separate molecules. Applicants note that 1-adamantamine, relied upon by the Examiner as a complexing agent, has no polymer portion. As such, Wolff does not teach all the limitations of the pending claims as currently amended and does not anticipate the instant claims. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

4. *Claim Rejections – 35 USC 103(a)*

Claims 5-7 and 11-18 are rejected under 35 USC 103(a) as allegedly being obvious over Wolff. Applicants respectfully traverse the rejection to the extent that it is maintained over the claims as currently amended. Pursuant to MPEP 2142, “[t]o establish a prima facie case of obviousness...the prior art reference (or references when combined) must teach or suggest all the claim limitations.” *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). As noted above, Wolff does not teach all the limitations of the pending claims as currently amended, and there is no apparent suggestion of the particular combination of features recited in claim 1 as amended. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

5. *Double Patenting Rejection*

Claims 5-7 and 11-21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 14-20 of U.S. Patent Application No. 10/021,312. Applicants will submit a terminal disclaimer, if necessary, upon indication of allowability.

Newly Added Claims

Claims 22-28 are newly added. Support for claims 22-23 and 26 can be found throughout the specification, for example, on page 42, lines 5-7 and on page 41, lines 2-15. Support for claims 24-25 can be found in the specification, for example, on page 40, line 11 and page 41, line 2. Support for claim 27 can be found in the specification, for example, on page 12, lines 16-19. Support for claim 28 can be found in numerous places in the specification, for example, on page 12, lines 11-13. Claims 22-28 present no new matter.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

Respectfully Submitted,

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